



City of Chicago



O2019-8010

Office of the City Clerk

Document Tracking Sheet

Meeting Date:	10/16/2019
Sponsor(s):	Reilly (42)
Type:	Ordinance
Title:	Amendment of Municipal Code Chapters 3-47 and 4-64 concerning retail sale of electronic cigarettes, liquid nicotine products and tobacco
Committee(s) Assignment:	Committee on License and Consumer Protection

ORDINANCE

SECTION 1. Section 3-47-020 of the Municipal Code of Chicago is hereby amended by deleting the language struck-through and inserting the language underscored, as follows:

3-47-020 Definitions.

(Omitted text is unaffected by this ordinance)

"Retail sale" means any sale to a person for use or consumption, and not for resale, including through the use of a website or any other digital platform.

(Omitted text is unaffected by this ordinance)

SECTION 2. Section 4-64-100 of the Municipal Code of Chicago is hereby amended by deleting the language struck-through and inserting the language underscored, as follows:

4-64-100 Definitions.

(Omitted text is unaffected by this ordinance)

"Illegitimate nicotine goods" means any electronic cigarette or liquid nicotine product that is counterfeit, faulty, mislabeled, recalled, or stolen.

(Omitted text is unaffected by this ordinance)

"Liquid nicotine product" has the meaning ascribed to that term in Section 3-47-020 of this Code.

(Omitted text is unaffected by this ordinance)

"Product unit" has the meaning ascribed to that term in Section 3-47-020 of this Code.

(Omitted text is unaffected by this ordinance)

"Retail tobacco dealer" means any person selling, offering for sale, exposing for sale or keeping with the intention of selling or exchanging at retail, tobacco products or tobacco accessories in the City, including through the use of a website or any other digital platform.

(Omitted text is unaffected by this ordinance)

"Underage tobacco violation(s)" means any violation of Section 4-64-345, Section 4-64-360, ~~or~~ Section 4-64-500(4)(i), or Section 4-64-505(a).

“Wholesale tobacco dealer” means any person making, manufacturing or jobbing cigars within the City, or selling, offering for sale, exposing for sale, or keeping with the intention of selling or exchanging or delivering at wholesale, within the City or to any retailer located within the City, including through the use of a website or any other digital platform, any tobacco, snuff, cigars, cigarettes, ~~or~~ cigarette papers including leaf tobacco or any preparations containing tobacco, tobacco products, or liquid nicotine products.

SECTION 3. Section 4-64-350 of the Municipal Code of Chicago is hereby amended by deleting the language struck-through and inserting the language underscored, as follows:

4-64-350 Certain transactions – Prohibited.

(Omitted text is unaffected by this ordinance)

(c) No person shall sell, offer for sale, barter, or expose for sale any illegitimate nicotine goods, including through the use of a website or any other digital platform.

~~(e)~~(d) Any person who violates this section shall be fined not less than \$1,000.00 nor more than \$5,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense, provided that each product unit consisting of one or more illegitimate nicotine goods sold, offered for sale, bartered, or exposed for sale in violation subsection (c) of this section shall constitute a separate and distinct offense.

~~(d)~~(e) The Commissioner of Health, with the approval of the Comptroller, shall amend by rule the minimum retail price of exempted large cigars in an amount proportional to the change, if any, in the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index for all Urban Consumers for the Chicago metropolitan area, or some other comparable index selected by the Commissioner of Health in his reasonable discretion if this index no longer exists. If the Commissioner amends the minimum retail price of exempted large cigars, the amended price shall not go into effect until 90 days after it is announced via rule duly promulgated by the Department of Health. Any such amendment shall be rounded to the nearest dime.

(Omitted text is unaffected by this ordinance)

SECTION 4. Section 4-64-500 of the Municipal Code of Chicago is hereby amended by deleting the language struck-through and inserting the language underscored, as follows:

4-64-500 Additional legal duties – Retail tobacco dealers.

In addition to the applicable legal duties set forth Chapter 4-4 of this Code and in Article III of this Chapter, each licensee engaged in the business of retail tobacco dealer shall have the following duties:

(1) *Recordkeeping.*

(i) At the time of the transaction, keep a written record in English of all purchases of cigarettes. Such record shall set forth: (i~~a~~) the name and address of the place of business of the person from whom the cigarettes were purchased, (i~~ii~~b) the date of the transaction, (i~~iii~~c) the seller's invoice number, (i~~iv~~d) the seller's tobacco license number, and (i~~v~~e) a description of the cigarettes purchased. The records required under this subsection, and all cigarettes purchased,

received or kept for sale by every retail tobacco dealer, shall be open for inspection, at all reasonable times, by the Commissioner or Comptroller or their respective designees or by any duly authorized member of the Department of Police, Department of Business Affairs and Consumer Protection, or Department of Finance.

(ii) Beginning June 1, 2020, at the time of the transaction, keep a written record in English of all sales of electronic cigarettes and liquid nicotine products. Such record shall set forth: (a) the name and address of the purchaser, (b) the date of the transaction, (c) the retail tobacco dealer's tobacco license number, and (d) a description of the electronic cigarettes and liquid nicotine products sold, including the quantities of electronic cigarettes and liquid nicotine products subject to maximum limits pursuant to Section 4-64-505(b) of this Code. The records required under this subsection, and all electronic cigarettes and liquid nicotine products sold, received or kept for sale by every retail tobacco dealer, shall be open for inspection, at all reasonable times, by the Commissioner or Comptroller or their respective designees or by any duly authorized member of the Department of Police, Department of Business Affairs and Consumer Protection, or Department of Finance.

(Omitted text is unaffected by this ordinance)

SECTION 5. Chapter 4-64 of the Municipal Code of Chicago is hereby amended by inserting new Section 4-64-505, as follows:

4-64-505 Electronic cigarette – requirements and maximum retail amounts.

(a) Beginning June 1, 2020, no retail tobacco dealer shall sell, give away, barter, or exchange at retail an electronic cigarette or liquid nicotine product to an individual without either:

(1) first scanning a valid government-issued photo identification in the form of a driver's license or non-driver identification card issued by the Illinois Secretary of State, or a similar photographic identification card issued pursuant to the laws of another state or the federal government verifying the purchaser is 21 years of age or older and that the identification has not expired; or

(2) prior to the first delivery sale in the case of sales through the use of a website or any other digital platform:

(A) receiving from the purchaser a copy of a valid government-issued identification that has not expired in the form of a driver's license or non-driver identification card issued by the Illinois Secretary of State, or a similar photographic identification card issued pursuant to the laws of another state or the federal government verifying the purchaser is 21 years of age or older; or

(B) requiring the purchaser to create an online profile or account with personal information that is verified by an independent third party through publicly-available records and/or databases, and which verifies the purchaser is 21 years of age or older.

(b) Beginning June 1, 2020, no retail tobacco dealer may sell, give away, barter, or exchange electronic cigarettes or liquid nicotine products to an individual in excess of the following daily maximum quantities:

(1) two electronic cigarettes;

(2) eight individual refill cartridges, pods, or other single-use containers of consumable liquid, gel, salt-based nicotine liquid, or other solution for use with an electronic cigarette, whether sold separately or as a part of a product unit; and

(3) 125 fluid milliliters of consumable liquid, gel, salt-based nicotine liquid, or other solution in bulk.

SECTION 6. Section 4-64-900 of the Municipal Code of Chicago is hereby amended by deleting the language struck-through and inserting the language underscored, as follows:

4-64-900 Fines – Specific offenses.

(Omitted text is unaffected by this ordinance)

(b) Except as otherwise provided in subsection (c) of this section, and in addition to any other penalty provided by law, any person found liable of violating Sections 3-42-060, 3-42-100, 4-64-200(a), 4-64-300, 4-64-310, 4-64-315, 4-64-340, 4-64-400(1), 4-64-500(1), 4-64-500(2), 4-64-500(3), 4-64-505(b), 4-64-510(1), 4-64-515, 4-64-520, 4-64-710 or 4-64-820(a) or any rule duly promulgated thereunder shall be punished by a fine of not less than \$1,000.00 nor more than \$5,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense.

(Omitted text is unaffected by this ordinance)

SECTION 7. Section 4-64-910 of the Municipal Code of Chicago is hereby amended by deleting the language struck-through and inserting the language underscored, as follows:

4-64-910 Fines – Underage tobacco violations.

(a) *Violations of Section 4-64-345 and Section 4-64-505(a)*. Any person who violates Section 4-64-345 or Section 4-64-505(a) shall be punished by a fine of not less than \$1,000.00 nor more than \$5,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense.

(Omitted text is unaffected by this ordinance)

SECTION 8. Section 4-64-935 of the Municipal Code of Chicago is hereby amended by deleting the language struck-through and inserting the language underscored, as follows:

4-64-935 License revocation – Required when.

(a) In addition to any other penalty provided by law, if a person commits or has committed any combination of three or more violations within any 24-month period of Sections 3-42-020, 3-42-025, 3-42-060, 3-42-100, 4-64-330, 4-64-340, 4-64-345, 4-64-360, 4-64-400(1), 4-64-500(1), 4-64-500(3), 4-64-500(4)(i), 4-64-505, 4-64-710, 4-64-810, 4-64-820 and 4-64-830, the Commissioner shall revoke that person's licenses. If a person commits two or more violations within any 48-month period of Section 4-64-350, the Commissioner shall revoke that person's licenses. For purposes of this section: (1) "licenses" includes any and all licenses issued by the City of Chicago to engage in business operations at the location at which the violations occurred; (2) multiple offenses occurring on the same date shall be deemed a single violation

while offenses occurring on separate dates shall be deemed separate violations; and (3) a "violation" may include a finding of liability or a finding sustaining the offense or offenses charged in the same or in any contemporaneous proceeding or evidence of any previously resolved final disposition against the licensee on a charge brought pursuant to one of the Code provisions listed above including but not limited to any finding of liability after adjudication on the merits, any default finding of liability, any uncontested finding of liability, any negotiated pre-hearing settlement of the charge, and any voluntary payment of the fine corresponding to the charge. A person subject to revocation pursuant to this subsection shall be entitled to the process described in Section 4-4-280, with the condition that any revocation hearing shall be limited to the issue of whether the licensee's record and the resolution of any pending charges in the same or contemporaneous proceedings, if applicable, accurately reflect the existence of a sufficient number of violations to support the revocation decision. The licensee shall not be permitted to challenge the previously resolved violations themselves, nor any underlying facts asserted or determined therein.

(Omitted text is unaffected by this ordinance)


SECTION 9. Section 4-64-940 of the Municipal Code of Chicago is hereby amended by deleting the language struck-through and inserting the language underscored, as follows:

4-64-940 Nonrenewal of licenses.

(a) In addition to any other penalty provided by law, if a licensee under this Chapter commits or has committed any combination of three or more violations within any 24-month period of Sections 3-42-020, 3-42-025, 3-42-060, 3-42-100, 4-64-340, 4-64-345, 4-64-360, 4-64-400(1), 4-64-500(1), 4-64-500(3), 4-64-500(4)(i), 4-64-505, 4-64-515, 4-64-710, 4-64-810, 4-64-820 and 4-64-830, the licensee shall be subject to nonrenewal of the license. If a person commits two or more violations within any 48-month period of Section 4-64-350, the licensee shall be subject to nonrenewal of the license. The Commissioner may decline to renew such license, subject to the procedure described in subsection (b) of this section. For purposes of this section, multiple offenses occurring on the same date shall be deemed a single violation, while offenses occurring on separate dates shall be deemed separate violations, and "violation" means any final disposition against the licensee on a charge brought pursuant to one of the Code provisions listed above, including but not limited to any finding of liability after adjudication on the merits of the charge, any default finding of liability, any uncontested finding of liability, any negotiated pre-hearing settlement of the charge, and any voluntary payment of the fine corresponding to the charge.

(Omitted text is unaffected by this ordinance)

SECTION 10. This ordinance shall take effect following due passage and approval.



Brendan Reilly
Alderman, 42nd Ward